



# California Fair Political Practices Commission

March 2, 1988

Gregg Rice  
609 Monroe Avenue  
Los Banos, CA 93635

Re: Your Request for Advice  
Our File No. A-88-053

Dear Mr. Rice:

You have requested advice concerning your duties under the conflict of interest provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTIONS

1. May you participate in decisions to assign your spouse to a position which would provide her with increased salary?
2. May you participate in decisions on personnel policies which could adversely or beneficially affect your spouse?
3. May you participate in collective bargaining decisions involving your spouse's bargaining unit?

## CONCLUSIONS

1. You may not participate in decisions to assign your spouse to a position which would increase her individual salary (e.g., to a mentor teacher position).
2. You may participate in decisions involving adoption of general personnel policies which could adversely or beneficially affect your spouse as long as these decisions affect all employees in the same job classification in the same manner.

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

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3. You may participate in collective bargaining decisions concerning your wife's bargaining unit.

#### FACTS

You are a newly elected member of the Board of Trustees of the Los Banos Unified School District. Your wife has been employed by the district for over 15 years as an elementary school teacher.

As a member of the board of trustees, you anticipate that you will be faced with a number of decisions which could affect your wife. For example, the board could be asked to decide questions involving assignment of your wife to a position which would result in a salary increase to her. This could include assignment to a mentor teacher position, a counselor position, a coaching position or an inservice instructor position. You may also be asked to consider personnel policies which could adversely or beneficially affect your wife, or to participate in negotiations and decisions on collective bargaining agreements for your wife's collective bargaining unit.

#### ANALYSIS

Section 87100 prohibits any public official from making, participating in, or using his official position to influence any governmental decision in which he knows or has reason to know he has a financial interest. A public official has a financial interest in a decision, and therefore must disqualify himself from participating in that decision, if the decision would have a reasonably foreseeable material financial effect on the official or a member of his immediate family, or on:

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

Generally, the Political Reform Act prohibits public officials from making decisions affecting their private financial interests. Pursuant to Section 82030, "income" is defined to exclude salary from a government agency. Therefore, your wife's position as a public school teacher would not usually create a conflict of interest situation for you.

Regulation 18702.1(a)(4) (copy enclosed) prohibits a public official from participating in any decision which would foreseeably increase or decrease the personal expenses, income,

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assets or liabilities of the official or his immediate family by at least \$250. However, that regulation also provides:

(c) Notwithstanding subsection (a) an official does not have to disqualify himself or herself from a governmental decision if:

\* \* \*

(2) The decision only affects the salary, per diem, or reimbursement for expenses the official or his or her spouse receives from a state or local government agency. This subsection does not apply to decisions to hire, fire, promote, demote, or discipline an official's spouse, or to set a salary from an official's spouse which is different from salaries paid to other employees of the spouse's agency in the same job classification or position.....

Regulation 18702.1(c)(2).

Therefore, a decision to increase the salaries of all teachers in the district would not create a conflict of interest situation for you, even if it would increase your wife's income by \$250 or more. However, a decision on discipline of your wife, or a decision to increase or decrease only her salary, as opposed to the salaries of all teachers, by \$250 or more per year, would require your disqualification. (See Advice Letters to Olson, Waggoner, and Hill, Nos. A-85-242, I-86-208, and I-86-336, copies enclosed)

Applying these principles to your specific questions, we conclude that you may not participate in decisions to assign your spouse to a position which would increase her individual salary (e.g., to a mentor teacher position). You may participate in decisions involving adoption of general personnel policies which could adversely or beneficially affect your spouse as long as these decisions affect all employees in the same job classification in the same manner.<sup>2/</sup> You may also participate in collective bargaining decisions concerning your spouse's bargaining unit.

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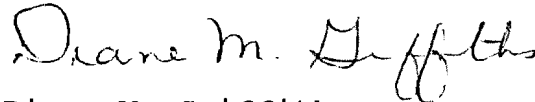
<sup>2/</sup> The Act's conflict of interest provisions deal with disqualifying financial interests. We assure for purposes of this letter that the personnel policies you are concerned with are related to teacher's salaries, benefits, and similar issues. Decisions on other personnel policies would not be affected by the Act's provisions.

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This advice is limited to interpretation of the Political Reform Act. You should consult the school district's attorney concerning Government Code Section 1090, which prohibits public official's from making contracts in which they have a financial interest.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script that reads "Diane M. Griffiths". The signature is written in dark ink and is positioned above the printed name and title.

Diane M. Griffiths  
General Counsel

DMG:mk  
Enclosure

Jan 23 6 01 AM '88

Gregg Rice  
609 Monroe Avenue  
Los Banos, CA 93635

January 22, 1988

State of California  
Fair Political Practices Commission  
Post Office Box 807  
Sacramento, CA 95804

Re: Request for Conflict of Interest Opinion

Gentlemen:

I was elected to the Board of Trustees of the Los Banos Unified School District on November 3, 1987. My wife has been employed for over 15 years by the School District as an elementary school teacher. In my newly-elected position, I request your opinion under Government Code Section 83114 as to what extent I may participate in personnel decisions which will affect my spouse. These personnel decisions would include, but may not be limited to:

1. Any action to assign my spouse to a position which would provide additional monies, such as that of mentor teacher, counselor, coach, or inservice instructor;
2. Consideration and adoption of personnel policies which could adversely or beneficially affect her;
3. Actions involving collective bargaining agreements for the bargaining unit in which my spouse is a member, including:
  - a. conferring in closed session;
  - b. giving directions to the District's labor negotiators on positions to be taken during the collective bargaining process;
  - c. voting on the final agreement.

I would appreciate your assistance in this matter.

Sincerely yours,

  
Gregg Rice



# California Fair Political Practices Commission

February 1, 1988

Gregg Rice  
609 Monroe Avenue  
Los Banos, CA 93635

Re: 88-053

Dear Mr. Rice:

Your letter requesting advice under the Political Reform Act was received on January 29, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, we will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths  
General Counsel

DMG:plh